

APPROVED: Meeting No. 01-92

ATTEST: 

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 40-91

December 9, 1991

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on December 9, 1991, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran and City Attorney Paul Glasgow.

Re: City Manager's Report

1. The dedication and opening of Wootton Parkway will take place next Thursday, December 19, at 11:30 a.m. Attendance by many area officials is anticipated.

2. The County Council will introduce legislation this week to consolidate all County fire tax districts into one. Some amendments will also be introduced to soften the impact of this legislation. A public hearing date should be set this week, and the City will mail information to all civic associations within the City's fire tax district.

Meeting No. 40-91

2

December 9, 1991

Councilmember Coyle indicated that he would like to discuss this issue in more detail under New Business.

3. Last week, the City held its second Citizen Police Academy graduation with 40 individuals receiving certificates. Plans are already underway for a third session.

In response to Councilmember Robbins, the City Manager will provide a report as to how the graduates are interacting in the community.

4. On January 26, 1992, new regulations applicable to state and local governments will go into effect pursuant to the Americans with Disabilities Act. The City has initiated a departmental self-evaluation, and a staff coordinator has been appointed. A worksession with the Human Rights Commission will be scheduled regarding compliance by the City with this law.

Re: Proclamation commemorating  
the 200th anniversary of the  
Bill of Rights on December  
15, 1991.

Proclamation No. 27-91

By a unanimous vote of the Mayor and Council, a Proclamation commemorating the 200th anniversary of the Bill of Rights on December 15, 1991, was approved. Councilmember Coyle read the Proclamation, the full text of which can be found in Proclamation File No. 6 of the Mayor and Council. Carole Cohen of the Rockville Kiwanis Club accepted the Proclamation.

A special banner reflecting the liberties guaranteed by the Bill of Rights is being displayed in front of City Hall during the month of December.

Re: Appointments

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Andre

Meeting No. 40-91

3

December 9, 1991

Webb was appointed to a two-year term on the Advisory Commission on Public Education.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, David Moskowitz was appointed to a five-year term on the Housing Authority Board of Commissioners.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, Carie Schaffer was reappointed to a three-year term on the Science and Technology Commission.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Alice Boyer was appointed to a three-year term on the Sign Review Board.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Herbert Pennock was reappointed to a two-year term on the Traffic and Transportation Commission.

Re: Approval of Minutes

Upon motion of Councilmember Robbins, duly seconded, with Councilmember Krasnow abstaining, the minutes of Meeting No. 38-91 (October 28, 1991) were approved, as written.

Upon motion of Councilmember Robbins, duly seconded and unanimously passed, the minutes of Meeting No. 39-91 (November 18, 1991) were approved, as written.

Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. Eileen McGuckian, on behalf of Peerless Rockville, presented the Mayor and Council with the 1992 Peerless Rockville calendar. These calendars are on sale at 20 area businesses at a cost of \$8 each or two for \$15. On Saturday, December 14, Peerless Rockville, St. Mary's and the Montgomery County Historical Society will host a tour of historic homes in Rockville between 1:00 and

Meeting No. 40-91

4

December 9, 1991

5:00 p.m.

2. Bob Slovic, 9 Dairyfield Court, requested that the four items on the Consent Agenda pertaining to stormwater management waivers be removed for discussion purposes. He also requested that a moratorium be placed on all stormwater management waivers until such time as the soon-to-be appointed task force has an opportunity to review this entire process.

Mayor Duncan stated that appointments to the task force would hopefully be made at the meeting of January 13.

Discussion followed regarding the impact of removing the stormwater management waivers from the agenda. The City Manager noted that these projects have been in progress for a number of months and have been reviewed by the City's stormwater management committee. He indicated that, in his opinion, incrementally adding a couple of projects will not adversely impact the City's stormwater management. The City Manager will prepare a report outlining what other projects are in the pipeline and what waiver requests can be anticipated over the next six-nine months while the task force is undertaking its review.

Councilmember Coyle suggested that until a decision is made to change the current policy, the City should not send the wrong message to the development community by turning down waiver applications. Mayor Duncan requested that information be provided to new developers as to the forthcoming review of all stormwater management policies and regulations.

3. Sue Carter, 200B Monroe Street, attorney for Taco Bell, advised the Mayor and Council that failure to grant Taco Bell's stormwater management waiver request would be detrimental

Meeting No. 40-91

5

December 9, 1991

to the project.

There being no other citizens wishing to be heard, the Mayor closed the Citizens' Forum portion of the meeting.

Re: Consent Agenda

Councilmember Krasnow requested that Items E, F, G, H and J be removed from the Consent Agenda, and Mayor Duncan requested the removal of Item A. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- B. Award of Bid No. 70-92 to Jack Stone Electrical Services of Landover, Maryland for the low bid amount of \$39,400.

This project calls for electrical service/distribution upgrade at the Rockville Civic Center Mansion. Funding in the amount of \$58,500 is budgeted for this project.

- C. Award of Bid No. 71-92 to Asbestos Environmental Services in the low bid amount of \$36,950.

This project provides for Citywide removal and disposal of asbestos. Funding in the amount of \$60,000 is budgeted for this project.

- D. Award of Bid No. 72-92 to P & E Paving, Inc., of Frederick, Maryland for the low bid amount of \$242,230.76.

This project calls for bituminous asphalt pavement for walkways, basketball courts and tennis courts.

Meeting No. 40-91

6

December 9, 1991

Funding in the amount of \$407,508 is budgeted for this project.

- I. Introduction of Ordinance to grant Application to Close and Abandon Public Way SCA-63-91, Rockville Pike Properties, Rocca Limited Partnership, Applicant.

The application proposes to abandon Halpine Avenue between Chapman Avenue and Rockville Pike, an area containing 16,205 square feet.

Re: Award of Proposal No. 33-92 for computer disaster recovery services to the IBM Corporation for the low bid amount of \$65,088. This amount includes subscription fees of \$52,479, and optional fees the City would incur only if deemed necessary. The proposal covers a five year period.

Sufficient funds are budgeted for this proposal for the first (partial) year, and monies will be budgeted for fiscal years 93, 94, 95, 96 and 97.

Mayor Duncan had requested that this item (A) be removed from the Consent Agenda to advise that his employer, AT&T, has purchased NCR and that it is important for him to be aware of any type of communication bids in which AT&T and NCR were invited to participate so that he can abstain when such items appear on the agenda.

Upon motion of Councilmember Marrinan, duly seconded, with Mayor Duncan abstaining, Proposal No. 32-92 was awarded to IBM Corporation in the amount of \$65,088 for computer disaster recovery services.

Meeting No. 40-91

7

December 9, 1991

Re: Approval of waiver for on-site stormwater management at the proposed Taco Bell and acceptance of a \$5,520 contribution to the SWM fund.

The owner/developer, Exxon Corporation, proposes to construct a Taco Bell restaurant on the site. Runoff from the adjacent Rockville Pike will go to the proposed Montrose Park SWM facility for which construction is anticipated in FY98. This SWM facility has received waivers totalling 24% of its storage capacity; adding this waiver will allow it to remain at 24%. The proposed facility may impact about one acre of wetlands.

Councilmember Krasnow had requested that this Item (E) be removed from the Consent Agenda to note that on-site stormwater management will be provided; however, the runoff from Rockville Pike does not drain towards the site and, therefore, cannot be directed into the on-site facility. This waiver is for 30 feet of existing Rockville Pike right-of-way adjacent to the property and includes a small portion of impervious area.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the waiver for on-site stormwater management at the proposed Taco Bell was approved with the acceptance of a \$5,520 contribution to the SWM fund.

Re: Approval of waiver for on-site stormwater management for the lot at 625 Great Falls Road in the Watts Branch drainage area, and acceptance

Meeting No. 40-91

8

December 9, 1991

of \$4,000 for the off-site SWM fund.

The runoff from this site is conveyed to pre-treatment pond #4, now under construction in the Rose Hill Falls subdivision. The runoff then flows to the authorized Julius West SWM facility. This facility, also currently under construction, has received waivers totalling 25.3% of its capacity. This waiver will increase the quantity to 25.9%.

Councilmember Krasnow had requested that this item (F) be removed from the Consent Agenda to indicate that this is a single-family house for which on-site stormwater management is rarely recommended. Staff advised Councilmember Krasnow that the runoff will go to a facility under construction as part of Rose Hill Falls subdivision. In addition to the regional facility being constructed, there will also be treatment ponds to pre-treat the water before it enters the existing wetlands.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the waiver for on-site stormwater management for the lot at 625 Great Falls Road was approved with the acceptance of a \$4,000 contribution to the SWM fund.

Re: Approval of waiver for on-site stormwater management for the property at 116 North Street in the Watts Branch drainage area, and acceptance of a \$2,400 contribution for the off-site SWM fund.

The runoff from this site is conveyed by vegetated swales



Meeting No. 40-91

9

December 9, 1991

and enclosed storm drains to an outfall in Woodley Gardens Park. The authorized Woodley Gardens South SWM facility will provide quantity control. This proposed facility is scheduled for construction in FY95 and has currently received waivers totalling 16.1% of its capacity. This waiver will increase the quantity to 16.3%.

Councilmember Krasnow had requested that this item (G) be removed from the Consent Agenda. She noted that the stormwater management facility is not proposed for construction until FY95. Most waivers anticipate future stormwater management facilities, and Councilmember Coyle indicated that the rule of thumb is that a current system can handle the runoff adequately until the new, larger facility is built.

Staff reported that there is no net increase in runoff from this site inasmuch as the proposed construction replaces an existing building.

Councilmember Krasnow indicated the need for a policy pertaining to waivers during this interim period.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, waiver of on-site stormwater management for the property at 116 North Street was approved with the acceptance of a \$2,400 contribution to the off-site SWM fund.

Re: Approval of waiver for on-site stormwater management at the proposed Halpine Village townhouses and acceptance of a \$31,200 contribution to the SWM fund.

Meeting No. 40-91

10

December 9, 1991

Owner/developer, James Impara, proposes to construct 15 townhouses on the site. Part of the runoff from this site will be compensated for in the existing Twinbrook Metro West Facility. This facility will reach its capacity with this addition.

Councilmember Krasnow had requested that this item (H) be removed from the Consent Agenda to request additional information with respect to the peak flow. The development site is close to the regional facility and the peak of this small development would coincide with the discharge from the regional facility. Therefore, on-site SWM would be detrimental to the receiving stream.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the waiver for on-site stormwater management at the Halpine Village townhouses was approved with the acceptance of a \$31,200 SWM contribution.

Re: Receipt of October financial reports summarizing the financial results of City operations for the period from July 1, 1991, through October 31, 1991.

Councilmember Krasnow had requested that this item (J) be removed from the Consent Agenda in order to emphasize that the City had received no monies from the County in terms of tax duplication and that the County is now talking about reducing the amount owed to the City. Mayor Duncan responded that a worksession will be held on January 21 with the County Council and the County Chapter of the Maryland Municipal League to discuss the revenue sharing agreement. In the meantime, the City Manager will put together a list of duplicate services. There may be discussions regarding turning services back to the County if they reduce the reimbursement.

Meeting No. 40-91

11

December 9, 1991

Re: Presentation of the Proposed 1993-1998 Master Plan for the Art in Public Places Program by George Northway, Chairperson of the AIPP Standing Committee of the Cultural Arts Commission.

Kenneth Lechter, Chairperson of the Commission, introduced George Northway who chairs the Art in Public Places Standing Committee. Mr. Northway gave a brief overview of the proposed AIPP Master Plan. He noted that the City is being provided a working document to use in considering artworks and other cultural amenities in the City.

Mayor Duncan indicated that there will be a worksession with the Cultural Arts Commission, tentatively scheduled for January 21, to discuss the proposed Master Plan and other issues. Councilmember Coyle suggested including an agenda item relating to the selection process at this worksession in order to discuss more neighborhood participation in the site selection process.

Discussion followed regarding the maintenance and refurbishment schedule which will be discussed in more detail at the worksession.

Mr. Northway thanked the other members of the Master Plan Subcommittee, Peg Sante, John Moser and Floria McGuckian. He also expressed appreciation to John Tyner, former Commission member for his input, and staff members, Betty Wisda and Kathleen Moran, for their excellent support.

Re: Adoption of Resolution to approve a "FICA Alternative" Plan for temporary and seasonal employees. This is necessary to comply with a new federal law.

Resolution No. 22-91

Meeting No. 40-91

12

December 9, 1991

Since 1970, the City has been exempt from paying FICA for seasonal and part-time employees. However, new federal legislation has eliminated this exemption. There are two options to achieve compliance with the new regulations:

1. direct participation in the FICA program which would mean payroll deductions for the part-time and seasonal employees as well as a substantial City contribution;
2. establishment of a pension-like plan which is substantially less than the FICA alternative.

Three points of evaluation were highlighted by the City Manager: what is best for the City financially; what is best for the employees; and what is best from an administrative standpoint.

The Retirement and Disability Board met tonight and unanimously recommended the creation of a FICA alternative program.

The Finance Director advised that the alternative is a forced IRA for approximately 1,000 individuals who, presumably, will meet their FICA quarters at some other time during their careers. The cost of FICA would be approximately \$130,000 to the City while there are no ongoing costs with the establishment of the pension plan.

The City Manager clarified that this alternative plan would be totally separate from the existing City pension plans for employees and would not preclude the transition into FICA at some point in the future.

In response to questions regarding the legality of creating a separate pension plan, the City Attorney advised that, in his opinion, there was no problem in adopting the resolution before the Mayor and Council. However, he noted that an ordinance would subsequently be required to amend the personnel regulations to provide for retirement benefits to this class of employees.

Following discussion regarding the age of the participants, administrative costs and

Meeting No. 40-91

13

December 9, 1991

burdens of such a system, the Mayor and Council agreed to proceed with the resolution and requested periodic status reports from staff regarding this plan.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Resolution No. 22-91, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to approve a FICA alternative plan for temporary and seasonal employees.

Re: Adoption of Ordinance to revise and amend Ordinance No. 16-91, appropriating funds and levying taxes for FY 1992.

Ordinance No. 28-91

Each fall, the Appropriation Ordinance is amended to reflect encumbrances of funds from the prior fiscal year. The total increase in the ordinance is \$679,569. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Ordinance No. 28-91, the full text of which can be found in Ordinance Book No. 17 of the Mayor and Council, was adopted to revise and amend Ordinance No. 16-91, appropriating funds and levying taxes for FY1992.

Re: Adoption of Ordinance to amend Chapter 23 of the Rockville City Code, entitled "Traffic," so as to provide a definition of "Gross Vehicle Weight."

Ordinance No. 29-91

This amendment defines "gross vehicle weight" as the weight of the vehicle and its load as designated by the National Automobile Dealers Associated Used Car Guide provided that a one-ton vehicle with a heavy duty option shall be considered as having an equivalent gross vehicle weight as the standard one-ton vehicle of the same make and model.

Meeting No. 40-91

14

December 9, 1991

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Ordinance No. 29-91, the full text of which can be found in Ordinance Book No. 17 of the Mayor and Council, was adopted to amend the definition of "gross vehicle weight" in Chapter 23 of the Rockville City Code.

Re: Adoption of Resolution establishing fines for violations of the Rockville City Code which constitute municipal infractions.

Resolution No. 23-91

This resolution updates the City's fine schedule to current code references and adjusts fines where appropriate. It was discussed that some of the fines had not been addressed separately in the past but had been included in a "catchall" provision. As recommended, the fines should be high enough to reflect the seriousness of the violations but low enough so that individuals may be inclined to pay rather than challenge the amount of the fines.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, Resolution No. 23-91, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted to update the City's fine schedule to current code references and to adjust fines, where appropriate.

Re: Discussion and instructions to staff regarding advisory referenda on the November 5, 1991 ballot.

Advisory questions were placed on the ballot as to whether the terms of office for the Mayor and Councilmembers should be increased from two years to four years and whether a limitation should be placed on the number of terms an elected official may serve.

Meeting No. 40-91

15

December 9, 1991

It was noted by several Councilmembers that Rockville has an educated electorate which has indicated that they are not in favor of four-year terms. However, there was support among the electorate for a limitation on the number of terms served. It was agreed that a subcommittee comprised of Councilmember Coyle and Councilmember Robbins would pursue this question in detail and come back to the full Mayor and Council with recommendations. A public hearing will be held on these recommendations, and one option will subsequently be selected to appear on the ballot in the 1993 election.

Re: FYI/Correspondence

Wootton Parkway Dedication

Councilmember Coyle was advised that the parkway will be open to traffic following the dedication ceremony and on-site luncheon on December 19.

Re: New Business

Fire Tax District

Councilmember Coyle noted the importance of educating businesses and citizens regarding the impact of the consolidation of the County's fire tax districts. The City will be paying for a tax break for the rest of the County's residents with no increase in service to City residents.

The City Manager advised that staff has alerted the Chamber of Commerce Board and they will do what they can to get the word out. The County Council was not unanimous on this issue last time; thus, there may be room for dialogue and discussion.

Mayor Duncan commented that although there was a good response last time from citizens, we need much more involvement and a good turnout from the business community. A package of information should be sent to the City of Gaithersburg asking for their support. Additionally, an information packet should be forwarded to the City's mailing list when the bill is introduced.

Meeting No. 40-91

16

December 9, 1991

Councilmember Coyle reintroduced the concept of the City forming its own fire department and staff will review this issue.

County Construction Tax

Councilmember Krasnow expressed concern with the recent tax approved by the County Council for all new construction in the County. Staff will prepare a report detailing the impact of this tax on development in the City of Rockville.

Wellness Program

Councilmember Marrinan commended staff on the City's Wellness Program and indicated that he is glad to see the City is on the forefront in these types of activities.

Small Cities Task Force

Councilmember Coyle reported that he has been appointed to the National League of Cities' Small Cities Task Force.

Re: Next Meeting

On Tuesday, December 17, the Mayor and Council will hold a public hearing on the annexation of the Irvington Farm property.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:30 p.m., to convene again in Public Hearing at 7:30 p.m. on December 17, 1991, or at the call of the Mayor.